

*McClay•Alton, P.L.L.P.*  
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*Marvin C. Ingber #0048859*  
*(Pro Hac Vice)*  
*Attorney and Counselor at Law*  
*6705 Apache Road*  
*Edina, Minnesota 55439-1001*  
*Telephone: 612-327-8378*  
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*Attorneys for Defendants:*  
*IRVING J. PINTO 1996 GRANTOR RETAINED*  
*ANNUITY TRUST; IRVING J. PINTO 1994*  
*GRANTOR RETAINED ANNUITY TRUST;*  
*SIDNEY KAPLAN, in his/her capacity as Trustee*  
*of the Irving J. Pinto 1996 Grantor Retained*  
*Annuity Trust and the Irving J. Pinto 1994*  
*Grantor Retained Annuity Trust; ESTATE OF IRVING*  
*J.PINTO; and JAMIE PINTO, in his capacity as*  
*Personal Representative of the Estate of Irving J. Pinto.*

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,  
v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.	
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	Adv. Pro. No. 10-04744 (SMB)
Plaintiff,	
v.	
IRVING J. PINTO 1996 GRANTOR RETAINED ANNUITY TRUST; IRVING J. PINTO 1994 GRANTOR RETAINED ANNUITY TRUST; SIDNEY KAPLAN, in his/her capacity as Trustee of the Irving J. Pinto 1996 Grantor Retained Annuity Trust and the Irving J. Pinto 1994 Grantor Retained Annuity Trust; ESTATE OF IRVING J.PINTO; and JAMIE PINTO, in his capacity as Personal Representative of the Estate of Irving J. Pinto,	
Defendants.	

**DECLARATION OF ROBERT M. MCCLAY IN SUPPORT OF DEFENDANTS'  
MOTION FOR AN ORDER PURSUANT TO RULE 2090-1(e) OF THE LOCAL  
BANKRUPTCY RULES TO REMOVE BRUCE S. SCHAEFFER AS COUNSEL TO  
DEFENDANTS**

I, Robert M. McClay declare as follows:

1. I am counsel at the law firm of McClay•Alton, P.L.L.P. and admitted Pro Hac Vice to this court. Pursuant to Rule 2090-1(e) of the Local Rules of the United States Bankruptcy Court for the Southern District of New York, I submit this declaration in support of the accompanying motion, notice of presentment and proposed order to remove Bruce S. Schaeffer (“Mr. Schaeffer”) as counsel for IRVING J. PINTO 1996 GRANTOR RETAINED ANNUITY TRUST; IRVING J. PINTO 1994 GRANTOR RETAINED ANNUITY TRUST; SIDNEY KAPLAN, in his/her capacity as Trustee of the Irving J. Pinto 1996 Grantor Retained Annuity Trust and the Irving J. Pinto 1994 Grantor Retained Annuity Trust; ESTATE OF IRVING J.PINTO; and JAMIE PINTO, in his capacity as Personal Representative of the Estate

of Irving J. Pinto (“Defendants”) in this adversary proceeding.

2. On March 28, 2012 an Order was signed granting my Pro Hac Vice admission.

3. On March 30, 2012 an Order was signed granting Pro Hac Vice admission to Marvin C. Ingber.

4. All ongoing representation matters are being handled by Marvin C. Ingber and me.

5. Defendants have authorized this action to formally remove Mr. Schaeffer as attorney of record in this matter and to have him removed from all service lists.

6. On January 19, 2015 my legal assistant sent a letter to Mr. Schaeffer enclosing a stipulation Notice of Substitution of Counsel and Proposed Order for his signature. Mr. Schaeffer’s two faxed responses to that letter and his reasons for not signing the stipulation are attached as Exhibit A & Exhibit B.<sup>1</sup>

7. On July 26, 2014 Schaeffer sent a letter to Attorney Dean D. Hunt at Baker Hostetler in Houston, TX stating that he did not want any more correspondence and had not been in the case for more than a year (attached as Exhibit C).

8. Marvin C. Ingber and I have not had any direct communication with Mr. Schaeffer after the transfer of the case to us. To my knowledge, Defendants have had no contact with Mr. Schaeffer since the transfer of the case to us.

9. As the foregoing states, we have been unable to obtain Mr. Schaeffer’s cooperation to remove himself as counsel.

10. It is not expected that any delay or prejudice will result to any party in this proceeding from this substitution of counsel.

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<sup>1</sup> Mr. Schaeffer provided the two letters via email to Judge Bernstein’s Chambers on February 3, 2015.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: St. Paul, Minnesota

April 22, 2015

By: /s/ Robert M. McClay  
Robert M. McClay

**BRUCE S. SCHAEFFER**

ATTORNEY AT LAW  
3 PARK AVENUE  
15<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10016

TEL. (212) 689-0400  
FAX (212) 696-9569

Date: January 21, 2015

To: Jennifer Fink

Fax: 651.290.2502

From: Susan Ogunnick

Re: Your letter of January 19, 2015

Number of pages to follow: 1

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**CONFIDENTIAL COMMUNICATION**

The attached material is intended for use only by the addressee set out above. It should not be read by, or distributed to, any other person. Such material may contain privileged or confidential information, the disclosure or other use of which by other than the intended recipient may result in the breach of certain laws or the infringement of the rights of third parties. If you have received this telexcopy in error, please notify us immediately by calling our office (collect if necessary) at (212) 689-0400 so that we can make appropriate arrangements for the return of this telexcopy at our expense. We thank you in advance for your cooperation and assistance.

**BRUCE S. SCHAEFFER**

ATTORNEY AT LAW

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NEW YORK, NEW YORK 10016

TEL (212) 689-0400  
FAX (212) 696-9569

Bruce.Schaeffer@gmail.com

January 21, 2015

**VIA FACSIMILE**

Jennifer Fink  
Legal Assistant to Robert M. McClay  
McClay Alton, PLLP  
951 Grand Avenue  
St. Paul, MN 55105

Dear Ms. Fink:

Mr. Schaeffer will need a better and fuller explanation as to why he should cooperate with Mr. Ingber and his clients who have threatened and libeled him. Please provide immediately.

Yours truly,



Susan Ogulnick  
Office Manager

**BRUCE S. SCHAEFFER**

ATTORNEY AT LAW  
3 PARK AVENUE  
15<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK, 10016

TEL (212) 689-0400  
FAX (212) 696-9569

Date: January 28, 2015

To: Jennifer Fink

Fax: 651.290.2502

From: Susan Ogulnick

Re: Your letter of January 19, 2015

Number of pages to follow: 1

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**BRUCE S. SCHAEFFER**

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TEL (212) 689-0400  
FAX (212) 696-9500

[Bruce.Schaeffer@gmail.com](mailto:Bruce.Schaeffer@gmail.com)

**SECOND NOTICE**

January 28, 2015

**VIA FACSIMILE**

Jennifer Fink  
Legal Assistant to Robert M. McClay  
McClay Alton, PLLP  
951 Grand Avenue  
St. Paul, MN 55105

Dear Ms. Fink:

We responded immediately to your request for action by January 30 by demanding a fuller explanation. You have failed to respond. Accordingly, we have no choice but to ignore your demands and Mr. Ingber's prior threats.

Yours truly,



Susan Ognick  
Office Manager

**BRUCE S. SCHAEFFER**

ATTORNEY AT LAW  
3 PARK AVENUE, SUITE 1501  
NEW YORK, NEW YORK 10016

TEL (212) 689-0400  
FAX (212) 696-9569

Bruce.Schaeffer@gmail.com

July 26, 2014

Dean D. Hunt  
Baker & Hostetler LLP  
811 Main Street  
Suite 1100  
Houston, TX 77002-6111  
Attorneys for Irving H. Picard, Esq.  
Trustee for Bernard L. Madoff Investment Securities LLC

Re: Irving J. Pinto, Adversary Proceeding #: 10-04744-smb

Dear Mr. Hunt:

I am in receipt of your letter dated July 21, 2004 directing me to preserve records with respect to the above-referenced proceeding. Your office has been advised for more than a year that Irving Pinto is dead and his estate has retained other counsel. I am not in the case and have not been for more than a year. Please stop sending me correspondence.

Yours truly,

  
Bruce S. Schaeffer

BSS:se

Exhibit C